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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,447	03/15/2004	David Patrick Forr	03382-P0119A	1228
7590	05/20/2005		EXAMINER	
Eugene L. Flanagan III Cowan, Liebowitz & Latman, P.C. 1133 Avenue of the Americas New York, NY 10036-6799			TANG, SON M	
			ART UNIT	PAPER NUMBER
			2632	

DATE MAILED: 05/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/800,447

Applicant(s)

FORR ET AL.

Examiner

Son M. Tang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Busche et al. [US 2003/0055707; Busche].

Regarding to claims 1, 3: Busche discloses a method for monitoring the presence of participants in a market research study, comprising:

-providing local signal transmitters 331-338 (EGPS which replace GPS) at predetermined locations within a commercial establishment to wirelessly transmit location signals associated with the locations [cited at ¶ 0063];

-providing a wireless receiver (attached to shopping basket) to each of a plurality of participants, which receives respective ones of the location signals when in a vicinity of each of the locations and stores the location and time data [cited at ¶ 0065, lines 5-10] for use in the market research study [cited in Fig. 3 and ¶ 0059, 0068 and 0069].

Busche does not specifically disclose that the receiver being adapted to be carried on the person. However, the receiver is attached to shopping basket and customer carry shopping basket for holding shopping products. Therefore, it would have been obvious of one having ordinary skill in the art at the time of the claimed invention to recognize that the wireless receiver attached to shopping basket is being carried on the person of one of the participants.

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Regarding to claims 2, 4: Busche discloses all the limitation as described above, except for not specifically discloses that comparing time data and location signals to determined participants movement in the commercial establishment over time. Since, the basket receiver recorded time points and locations of its movement throughout the store, it is obvious of one having ordinary skill in the art to use that data to determine customer movements in the commercial establishment over time.

Regarding to claims 5 and 14-18: Busche discloses a method of gathering data representing customer behavior in a commercial establishment, comprising:

- providing a layout map representing a plurality of locations within a commercial establishment met by local signal transmitters 331-338 (EGPS which replace GPS) at [cited at ¶ 0063];

- providing a portable monitor 344 (attached to shopping basket) to each of a plurality of panelists participating in a customer behavior study [¶ 0065];

- gathering panelist presence data in the portable monitors 340-344, representing a presence of respective ones of the panelists at identified ones of the locations within the commercial establishment and with plurality of locations represented by the layout map 331-338 [cited at Fig. 3, ¶ 0065 lines 5-10, ¶ 0059, 0068 and 0069].

Busche does not specifically disclose that the portable monitor to be wear on the panelist. However, the receiver is attached to shopping basket and customer carry shopping basket for holding shopping products. Therefore, it would have been obvious of one having ordinary skill in the art at the time of the claimed invention to recognize that the wireless receiver attached to shopping basket is being carried on the panelist of one of the participants.

Regarding to claims 6, 9-10: Busche discloses wherein gathering data comprises receiving wireless transmitted location indicating data in the portable monitors representing ones of the locations and times within the commercial establishment [cited ¶ 0065].

Regarding to claim 7: Busche discloses gathering data in the portable monitors representing exposure of respective ones of the panelists to media data (met by wireless transmitters 331-338 and basket receivers).

Regarding to claims 8 and 11: Busche discloses all the limitation as described above, except for not specifically discloses of gathering outdoor advertising data in the portable monitors. However, as long as the portable monitors are being able to receive (exposure) the locations and times from the layout map (transmitters) positioned at plurality locations within the commercial establishment. Therefore, it would have been obvious of one having ordinary skill in the art at the time of the claimed invention to have layout map (transmitter) positioned at any appropriate location includes outdoor advertising.

Regarding to claim 12: Busche discloses all the limitation as described above, Busche further discloses that associating data representing displays products offered for sale with selected ones of the plurality of locations represented by the layout map [see ¶ 0063, lines 8-13 and ¶ 0069].

Regarding to claim 19: Busche discloses all the limitation as described above, except for not specifically discloses a step of calibrating an inertial monitoring unit within each of the portable monitors, based on the wirelessly transmitted location signal and determining a presence of each portable monitor by means of the calibrated inertial monitoring unit. Since, the commercial establishment maybe a large facility or wireless transmitters are spaced distance

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from each other or panelists might take longer time at one location, which may drain out power of portable monitors faster. Therefore, it would have been obvious of one having ordinary skill in the art to employ an inertial monitoring for calibrating the portable monitor to activate only when it up close to the transmitter, for the purpose of reserving energy.

Regarding to claim 20: Busche discloses all the limitation as described above, Busche further discloses that producing presence data based on the received wirelessly transmitted location signal by means of a time difference of arrival technique such as once per second, location recorded [cited at ¶ 0065 lines 5-7].

Regarding to claim 21: Busche discloses all the limitations as described above, except for specifically discloses that the media data exposure (transmitter) is an acoustic media (frequency type). However, as long as the portable monitors are being received media data exposure from the transmitter, employing any known type of device such as acoustic frequency to perform the same function it not constitute an inventive step, but obvious of design choice. Therefore, it would have been obvious of one having ordinary skill in the art at the time of the claimed invention, to employ a known frequency type of device such as acoustic media into the system of Busche, in order to fulfill the user desired.

Regarding to claims 13 and 22: Busche discloses a relational database storing data representing consumer behavior in a commercial establishment, comprising:

- a record of plurality locations, plurality specific time points and products location [as shown in Fig. 3, ¶ 0065, 0068 to 0069 and 0074]. Busche does not specifically discloses a first table storing first records, including a first field storing wireless transmitter positioned in commercial establishment and a second field storing wireless transmitter location of retail establishment, and

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a second table storing a second records each includes a first field representing a consumer participating and a second field representing a respective one of the plurality of wireless transmitters. Examiner take Official Notice that a database is memory storage of data information that can be formed and organized by multiple registers and each register can be implemented to be stored specific data. Therefore, it would have been obvious of one having ordinary skill in the art at the time of the claimed invention to implement the database to store different data, for example transmitters position of commercial establishment in a first field of a first table, and transmitters location of retail establishment in a second field of a first table and so on as claimed.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kirshenbaum et al. [US 2003/0171975].


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son M. Tang whose telephone number is (571)272-2962. The examiner can normally be reached on 4/9 First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel J. Wu can be reached on (571)272-2964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Son Tang


Thomas J. Mullen, Jr.
Primary Examiner
Art Unit 2632 5-16-05